

ORDER NO. 1946

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman; and
Mark Acton

Competitive Product Prices
Global Expedited Package Services 3 (MC2010-28)
Negotiated Service Agreement

Docket No. CP2014-20

ORDER APPROVING A GLOBAL EXPEDITED PACKAGE SERVICES 3
NEGOTIATED SERVICE AGREEMENT

(Issued January 3, 2014)

I. INTRODUCTION

The Postal Service seeks to include a Global Expedited Package Services (GEPS) 3 contract (Agreement) within the GEPS 3 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

II. BACKGROUND

The Commission approved the addition of GEPS 3 to the competitive product list in Order No. 503, following consideration of the Postal Service's request in Docket

¹ Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 23, 2013 (Notice).

No. MC2010-28.² The request was supported by Governors' Decision No. 08-7. *Id.* at 2. The Commission concurrently established the GEPS 3 agreement filed in related Docket No. CP2010-71 as the baseline agreement for comparing potentially functionally equivalent agreements proposed for inclusion within the GEPS 3 product. *Id.* at 6-7.

The Postal Service will notify the contract partner of the effective date of the contract not later than 30 days after receiving approval from "the entities that have oversight responsibilities for the USPS." *Id.* Attachment 1 at 7. The contract is set to expire one year after the effective date, or the last day of the month that is one year after the effective date, whichever is later. *Id.*

In Order No. 1925, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided interested persons with an opportunity to comment.³

III. THE POSTAL SERVICE'S POSITION

The Postal Service asserts that its filing demonstrates that the Agreement complies with the requirements of 39 U.S.C. § 3633, is functionally equivalent to the baseline agreement, and requests that the Agreement be included within the GEPS 3 product. Notice at 2. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the GEPS 3 product. *Id.* at 2-3. The Postal Service also asserts that the Agreement and the baseline agreement possess similar cost and market characteristics and the same functional terms, but states that prices may differ. *Id.* at 3-4. The Postal Service identifies numerous differences between the

² See Docket Nos. MC2010-28 and CP2010-71, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, July 29, 2010, at 8 (Order No. 503).

³ Notice and Order Concerning Additional Global Expedited Package Services 3 Negotiated Service Agreement, December 24, 2013 (Order No. 1925).

Agreement and the baseline agreement, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁴

IV. COMMENTS

The Public Representative filed comments in response to Order No. 1925.⁵ No other comments were received.

Based upon his review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement's pricing is consistent with applicable statutory and regulatory requirements and should generate sufficient revenues to cover costs. *Id.* at 2. He states that the contract's pricing reflects appropriate increases in costs and comports with the template in Governors' Decision No. 08-7. *Id.*

V. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules.

Functional equivalence. The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in Governors' Decision No. 08-7; and comports with 39 U.S.C. § 3633 and related Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not undermine a

⁴ Differences include, among others, revisions to existing articles; the deletion of an article relating to service guarantees; the renumbering of several articles; and inclusion of new articles. *Id.* at 4-6.

⁵ Public Representative Comments on Notice and Order Concerning Filing of an Additional Global Expedited Package Services 3 Negotiated Service Agreement, December 27, 2013 (PR Comments).

finding of functional equivalency. The Commission therefore finds that the instant Agreement may be included within the GEPS 3 product.

Cost considerations. The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's Comments. Based on this review, the Commission finds that the Agreement should cover its attributable costs. 39 U.S.C. § 3633(a)(2). Additionally, it finds that the Agreement should not result in competitive products being subsidized by market dominant products, satisfying the requirements of 39 U.S.C. § 3633(a)(1). It also finds the Agreement should have a positive effect on the contribution of competitive products to institutional costs, in furtherance of 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the Agreement indicates it is consistent with the section 3633(a) provisions applicable to rates for competitive products

Follow-up submissions. The Postal Service shall promptly notify the Commission of the effective date of the Agreement. Upon termination of the Agreement by either party, the Postal Service shall promptly inform the Commission of this development and the date of termination. In addition, within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues associated with the Agreement, including any penalties paid, disaggregated by weight and country group.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2014-20 is included within the Global Expedited Package Services 3 (MC2010-28) product.
2. The Postal Service shall promptly notify the Commission of the effective date of the Agreement.

3. The Postal Service shall promptly notify the Commission of termination of the Agreement by either party.
4. Within 30 days of the termination of the Agreement, the Postal Service shall file costs, volumes, and revenues, including any penalties paid, disaggregated by weight and country group.

By the Commission.

Shoshana M. Grove
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

PART B—COMPETITIVE PRODUCT LIST

2500 Negotiated Service Agreements

2510 Outbound International

2510.3 Global Expedited Package Services (GEPS) Contracts

2510.3.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- GEPS 3
 Baseline Reference
 Docket Nos. CP2010-71 and MC2010-28
 PRC Order No. 503, July 29, 2010
 Included Agreements

CP2014-20, expires TBD
